



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

A.X.O. Chemical, Inc.
5931 S.W. 50 Street
Miami, Florida 33155

Attention: Guillermo Fernandez
President

Dear Mr. Fernandez:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below, A.X.O. Chemical, Inc. (AXO) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2000)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991, Supp. 2000 and Pub. L. No. 106-508, November 13, 2000)) (the Act).²

Facts constituting violations:

Charges 1 - 4

As is described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, from on or about July 4, 1997 through on or about November 13, 1998, AXO exported U.S.-origin hydrofluoric acid from the United States to the Dominican

¹ The Regulations governing the violations at issue are found in the 1997, 1998 and 1999 versions of the Code of Federal Regulations. Those Regulations are codified at 15 C.F.R. Parts 730-774 (1997, 1998 and 1999) and, to the degree to which they pertain to this matter, are substantially the same as the 2000 version.

² During the time of the Act's lapse (August 20, 1994 through November 12, 2000), the President, through Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 *Fed. Reg.* 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000))



Republic without obtaining the export licenses required by Section 742.2(a) Regulations. BXA alleges that, by engaging in conduct prohibited by or contrary to the Regulations, AXO committed four violations of Section 764.2(a) of the Regulations.

Charges 5-8

As is described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, in connection with the shipments made on or about July 4, 1997 through on or about November 13, 1998, AXO filed Shipper's Export Declarations, an export control document as defined in Part 772 of the Regulations, representing that no license was required for each of those shipments³. In fact, each of those shipments required a license from BXA. BXA alleges that, by making false or misleading statements of material fact in connection with the preparation, submission, issuance or use of an export control document, AXO committed four violations of Section 764.2(g) of the Regulations.

Charges 9-17

As is described in greater detail in Schedule B, which is enclosed herewith and incorporated herein by reference, from on or about July 4, 1997 through on or about May 20, 1999, AXO exported U.S.-origin triethanolamine from the United States to the Dominican Republic without obtaining the export licenses required by Section 742.2(a) Regulations. BXA alleges that, by engaging in conduct prohibited by or contrary to the Regulations, AXO committed nine violations of Section 764.2(a) of the Regulations.

Charges 18-24

As is described in greater detail in Schedule B, which is enclosed herewith and incorporated herein by reference, in connection with the shipments made on or about July 4, 1997 through on or about May 20, 1999, AXO filed Shipper's Export Declarations, an export control document as defined in Part 772 of the Regulations, representing that no license was required for each of those shipments³. In fact, each of those shipments required a license from BXA. BXA alleges that, by making false or misleading statements of material fact in connection with the preparation, submission, issuance or use of an export control document, AXO committed seven violations of Section 764.2(g) of the Regulations.

BXA alleges that AXO committed 13 violations of Section 764.2(a) and 11 violations of Section 764.2(g) of the Regulations, for a total of 24 violations.

³ The term used by AXO on its SEDs was G-DEST. This term was used to indicate that a shipment did not require a license issued by BXA under the Regulations in effect prior to 1997.

Accordingly, AXO is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$11,000 per violation (see Section 764.3(a)(1) of the Regulations and 15 C.F.R. § 6.4(a)(3)(2000);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If AXO fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

AXO is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a consent settlement.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, AXO's answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of AXO's answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Mi-Yong Kim, Esq." below the address. Ms. Kim may be contacted by telephone at (202) 482-5311.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

Enclosures

SCHEDULE A

A.X.O. CHEMICAL, INC.
SCHEDULE OF VIOLATIONS
HYDROFLUORIC ACID

Charge No.	Exported on or about	Invoice No.	Bill of Lading No.	SED Notation
1,5	7/04/97	1431-X	BCIH-013	G-DEST
2,6	7/25/97	1438-X	MIAVOK 040RHH 021	G-DEST
3,7	6/30/98	1547-X	BCIH-015	G-DEST
4,8	11/13/98	1583	IIAI-006	G-DEST

SCHEDULE B

A.X.O. CHEMICALS, INC.
SCHEDULE OF VIOLATIONS
TRIETHANOLAMINE

Charge No.	Exported on or about	Invoice No.	Bill of Lading No.	SEI D Notation
9,18	7/04/97	1439-XS	BCII-012	G-DEST
10,19	3/31/98	1519-X	IIAI-043	G-DEST
11,20	8/18/98	1555	BCII-013	G-DEST
12,21	8/28/98	1562-EC	IIAI-053	G-DEST
13	10/6/98	1572-EC	IIAI-046	No SED
14,22	1/29/99	1601	BCII-014	G-DEST
15,23	3/05/99	1617	MIAKOR 234RII 015	G-DEST
16	4/02/99	1624	MIAKOR 236BOC 002	No SED
17,24	5/20/99	1643	MIA YOK 087RII 014	G-DEST

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
A.X.O. Chemical, Inc.)
5931 S. W. 50th Street)
Miami, Florida 33 155,)
)

Respondent)

SETTLEMENT AGREEMENT

This Agreement is made by and between A.X.O. Chemical, Inc. (hereinafter referred to as AXO) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2001)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2000)) (the Act).²

WHEREAS, the Office of Export Enforcement, Bureau of Export Administration (BXA), has notified AXO of its intention to initiate an administrative proceeding against AXO pursuant to the Act and the Regulations, based on allegations that, on four occasions from on or about July 4, 1997 through on or about November 13, 1998, AXO exported hydrofluoric acid

¹ The Regulations governing the violations at issue are found in the 1997, 1998 and 1999 versions of the Code of Federal Regulations. Those Regulations are codified at 15 C.F.R. Parts 730-774 (1997, 1998 and 1999) and, to the degree to which they pertain to this matter, are substantially the same as the 2001 version.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 *Fed. Reg.* 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000)) until November 13, 2000 when the Act was reauthorized. See Pub. L. No. 106-508.

from the United States to the Dominican Republic without obtaining the export licenses required by Section 742.2(a) Regulations, in violation of Section 764.2(a) of the Regulations; that, in connection with those shipments made on or about July 4, 1997 through on or about November 13, 1998, AXO violated the provisions of Section 764.2(g) of the Regulations by making false or misleading statements of material fact in connection with the preparation, submission, issuance or use of an export control document; that, on nine occasions from on or about July 4, 1997 through on or about May 20, 1999, AXO exported triethanolamine from the United States to the Dominican Republic without obtaining the export licenses required by Section 742.2(a) Regulations, in violation of Section 764.2(a) of the Regulations; and that, in connection with seven of the shipments made on or about July 4, 1997 through on or about May 20, 1999, AXO violated the provisions of Section 764.2(g) of the Regulations by making false or misleading statements of material fact in connection with the preparation, submission, issuance or use of an export control document;

WHEREAS, AXO has reviewed the proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; AXO fully understands the terms of this Settlement Agreement and the Order; AXO enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and AXO states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, AXO neither admits nor denies the allegations contained in the proposed Charging Letter;

WHEREAS, AXO wishes to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, AXO agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

NOW THEREFORE, AXO and BXA agree as follows:

1. BXA has jurisdiction over AXO, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.
2. BXA and AXO agree that the following sanctions shall be imposed against AXO in complete settlement of all alleged violations of the Act and the Regulations arising out of the transactions set forth in the proposed Charging Letter:
 - (a) AXO shall be assessed a civil penalty of \$48,000, \$3,000 of which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the appropriate Order. Payment of the remaining \$45,000 shall be suspended for a period of three years from the date of entry of the appropriate Order and thereafter shall be waived, provided that during the period of suspension, AXO has committed no violation of the Act, or any regulation, order or license issued thereunder; and provided further that AXO has made timely payment of \$3,000 of the civil penalty.
 - (b) AXO and all of its successors and assigns, officers, representatives, agents, and employees, may not, for a period of three years from the date of entry of the appropriate Order, participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter

collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- i. Applying for, obtaining, or using any license, License Exception, or export control document;
 - ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
 - iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.
- (c) BXA agrees that, as authorized by Section 766.18(c) of the Regulations, the three year denial period set forth in paragraph 2(b) shall be suspended for a period of three years from the entry of the appropriate Order, and shall thereafter be waived, provided that during the period of suspension, AXO has committed no violation of the Act or any regulation, order or license issued thereunder, and, provided further that AXO has made timely payment of \$3,000 of the civil penalty.
3. AXO agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter

(except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of any civil penalty paid pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against AXO in connection with any violation of the Act or the Regulations arising out the transactions identified in the proposed Charging Letter.

5. AXO understands that BXA will make the proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

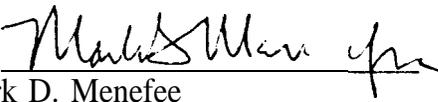
6. BXA and AXO agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(a) of the Regulations, BXA and AXO agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that the parties shall not be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

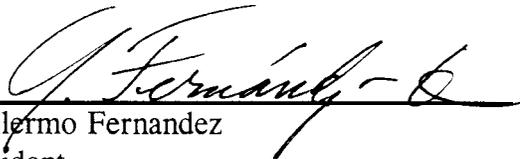
7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

A.X.O. CHEMICAL, INC.

BY: 
Mark D. Menefee
Director
Office of Export Enforcement

BY: 
Guillermo Fernandez
President

Date: 7/26/01

Date: July 20, 2001

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
A.X.O. Chemical, Inc.)
5931 S. W. 50 th Street)
Miami, Florida 33 155,)
)
<u>Respondent</u>)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified A.X.O. Chemical, Inc. 5931 S.W. 50th Street, Miami, Florida 33155 (hereinafter referred to as “AXO”) of its intention to initiate an administrative proceeding against AXO pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2001)) (the Act),’ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2001)) (the Regulations),’ based on allegations, that on four occasions from on or about July 4, 1997 through on or about November 13, 1998, AXO exported hydrofluoric acid from the

¹ From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations then in effect under the International Emergency Economic Powers Act (50 U.S.C. A. §§ 1701 - 1706 (1991 & Supp. 2001)) (IEEPA). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 *Fed. Reg.* 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA.

² The Regulations governing the violations at issue are found in the 1997, 1998 and 1999 versions of the Code of Federal Regulations. Those Regulations are codified at 15 C.F.R. Parts 730-774 (1997, 1998 and 1999) and, to the degree to which they pertain to this matter, are substantially the same as the 2001 version.

United States to the Dominican Republic without obtaining the export licenses required by Section 742.2(a) Regulations, in violation of Section 764.2(a) of the Regulations; that, in connection with those shipments made on or about July 4, 1997 through on or about November 13, 1998, AXO violated the provisions of Section 764.2(g) of the Regulations by making false or misleading statements of material fact in connection with the preparation, submission, issuance or use of an export control document; that, on nine occasions from on or about July 4, 1997 through on or about May 20, 1999, AXO exported triethanolamine from the United States to the Dominican Republic without obtaining the export licenses required by Section 742.2(a) Regulations, in violation of Section 764.2(a) of the Regulations; and that, in connection with seven of the shipments made on or about July 4, 1997 through on or about May 20, 1999, AXO violated the provisions of Section 764.2(g) of the Regulations by making false or misleading statements of material fact in connection with the preparation, submission, issuance or use of an export control document, and;

BXA and AXO having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, a civil penalty of \$48,000 is assessed against AXO, \$3,000 of which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$45,000 shall be suspended for three years from the date of entry of this Order and

shall thereafter be waived, provided that, during the period of suspension, AXO has committed no violation of the Act, or any regulation, license or order issued thereunder; and provided further that AXO has made timely payment of \$3,000 of the civil penalty.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 & Supp. 2001)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, AXO will be assessed, in addition to interest, the amount suspended, and a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, for a period of three years from the date of this Order, AXO and all of its successors and assigns, officers, representatives, agents and employees, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

FOURTH, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves

the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

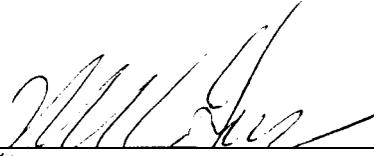
FIFTH, that after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to AXO by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

SIXTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S. -origin technology.

SEVENTH, that, as authorized by Section 766.18(c) of the Regulations, the denial period set forth above shall be suspended in its entirety for three years from the date of this Order, and shall thereafter be waived, provided that during the period of suspension, AXO has committed no violation of the Act or any regulation, order or license issued thereunder, and, provided further that AXO has made timely payment of the civil penalty.

EIGHTH, that the proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



Michael J. García
Assistant Secretary
for Export Enforcement

Entered this 24th day of September, 2001.